

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Wayne R. Andersen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 3573	DATE	APRIL 27, 2007
CASE TITLE	John P. Miller and Terese A. Miller v. James G. Herman, individually, and James G. Herman & Associates, and Pella Products, Inc.		

DOCKET ENTRY TEXT

This case is before the court on defendants James G. Herman and James G. Herman & Associates motion to dismiss. The defendant's motion [19] is denied.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

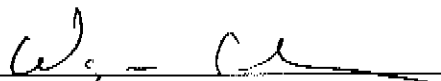
Plaintiffs John Miller and Terese Miller allege in their complaint that windows manufactured and sold by Pella Products, Inc., allegedly incorrectly installed in a house built by James G. Herman and James G. Herman and Associates pursuant to an oral contract, are consumer products warrantied by Pella Products, Inc. ("Pella"). Defendant James G. Herman filed a motion to dismiss, alleging that he was not a party to the contract, and Defendant James G. Herman & Associates filed a motion to dismiss claiming the windows were not consumer products under the Magnuson-Moss Warranty Act. Defendant Pella did not join either motion to dismiss, although it filed a cross-claim against the other defendants for contribution.

We deny Defendant James G. Herman & Associates' motion to dismiss based on our reading of the Magnuson-Moss Warranty Act, and Defendant James G. Herman's motion to dismiss on the grounds that we have inadequate evidence with which to determine whether he was individually a party to the contract at this stage of the litigation.

IT IS SO ORDERED.

Dated:

April 27, 2007


Wayne R. Andersen
District Judge